

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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LORENE MURPHY AS GUARDIAN OF	:	
EDWARD PETER ZANCHETTA,	:	
	:	
Plaintiff,	:	
	:	No. 1:19-cv-05198-JGK-RWL
- against -	:	
	:	
VIRDA NETCO ESTABLISHMENT, and	:	
FLAVIO LEPORI,	:	
	:	
Defendants.	:	
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JUDGMENT

This action commenced on June 3, 2019 by the filing of the Complaint. On August 23, 2019 a copy of the Summons and Complaint was served on Defendant, Virda Netco Establishment, by personally serving its corporate officer, Flavio Lepori, pursuant to Article 5 of the Hague Conventions. Proof of service was filed on September 13, 2019 [D.E. 16]. Defendant Virda Netco Establishment did not answer the Complaint, the time to answer the Complaint expired, and the Clerk entered a Certificate of Default against Virda Netco Establishment [D.E. 19].

On December 5, 2019, the Court entered an Order to Show Cause for Default Judgment [D.E. 26], for which the Court heard arguments on December 19, 2019. On that same date, the Court issued an Order declaring that plaintiff was entitled to a default judgment against defendant Virda Netco Establishment and that defendant Flavio Lepori was dismissed, and referred the matter to the Magistrate Judge for a Report and Recommendation as to the appropriate judgment to be entered. [D.E. 27] On March 3, 2020, Magistrate Judge Lehrburger entered a Report and Recommendation that a constructive trust be imposed in favor of Lorene Murphy, in her capacity as guardian of Edward P. Zanchetta, over any funds, property, coins, precious metals, safety

deposit boxes, artwork, shares of stock, partnership interests, or other assets of Virda Netco Establishment [D.E. 37]. On April 14, 2020, the Court adopted the Magistrate's Report and Recommendation [D.E. 40]. The well-pleaded allegations contained in the Complaint are accepted as true and the Court has considered the sworn declaration of Plaintiff's legal guardian and submission of business records. Thus, it is ORDERED, ADJUDGED, AND DECREED:

1. This case was brought by Lorene Murphy, an individual, in her capacity as legal guardian of Edward P. Zanchetta.

2. The Court takes judicial notice that Mr. Zanchetta is deemed legally incapacitated and Lorene Murphy is his legal guardian pursuant to an ongoing guardianship proceeding in Miami, Florida. (*See In re Guardianship of Edward Peter Zanchetta*, in the Eleventh Judicial Circuit in and for Miami Dade County, Florida, Case No.: 2018-003374-DC-02 (Div. 5)).

3. Virda Netco Establishment ("Virda Netco"), is a foreign corporation capitalized by Edward Peter Zanchetta's funds and organized to manage those funds.

4. Mr. Zanchetta, the individual in possession of the Zessionserklaerung, a legal document in Lichenstein, is the holder of the rights and sole owner of Virda Netco.

5. Without the consent of Mr. Zanchetta and without authority to do so, Mr. Lepori named himself as the only authorized user of Virda Netco bank accounts, which include, but are not limited to, those currently open at JPMorgan Securities, LLC (Account Number ending in 083) and Morgan Stanley & Co., LLC (Active Assets Account Number ending in 617) (the "Virda Netco Bank Accounts").

6. The Virda Netco Bank Accounts have been open and in use for many years, and an accounting is therefore needed to marshal and evaluate the assets of Virda Netco to which Zanchetta is entitled to control.

7. A remedy at law is inadequate because, without an accounting, Zanchetta is unable to verify the financial status of Virda Netco.

8. The funds within the Virda Netco Bank Accounts have been traced back to Mr. Zanchetta. Thus, Virda Netco holds the money in trust for Mr. Zanchetta. The assets in the trust are the rightful property of Zanchetta.

Based upon these facts, Plaintiff, Lorene Murphy, as Guardian of Edward Peter Zanchetta, shall have a final judgment against Virda Netco Establishment for the benefit of Mr. Zanchetta. it is therefore ORDERED AND ADJUDGED that :

- a) Lorene Murphy, in her capacity as guardian of Edward P. Zanchetta, is granted an equitable accounting of all transactions, business operations and accounts and assets of Virda Netco Establishment within the accounts held in its name with JP Morgan Chase & Co. (Account Number ending in 083) and Morgan Stanley & Co., LLC (Active Assets Account Number ending in 617);
- b) The Court imposes a constructive trust in favor of Lorene Murphy, in her capacity as guardian of Edward P. Zanchetta, over any funds, property, coins, precious metals, safety deposit boxes, artwork, shares of stock, partnership interests, or other assets of Virda Netco Establishment, including the funds held in any Virda Netco Bank Account; and
- c) The Court directs Morgan Stanley & Co., LLC and JP Morgan Chase & Co. and their respective affiliates to transfer the Virda Netco Bank Accounts, and grant full access to the Virda Netco Bank Accounts, to Lorene Murphy, in her capacity as guardian of Edward P. Zanchetta.

The Clerk is directed to enter this judgment and to close the case.

April 28, 2020
New York, NY

/s/ John G. Koeltl
John G. Koeltl
U.S.D.J.